

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 228 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME TAX

Versus

HARISH C MEHTA  
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Appearance:

Mr. Mihir Joshi for MR MANISH R BHATT for Petitioner  
NOTICE SERVED for Respondent No. 1  
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CORAM : MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

Date of decision: 28/04/98

ORAL JUDGEMENT

(Per R.K.Abichandani,J)

The Income-tax Appellate Tribunal has referred the following question which pertains to the assessment year 1989-90 for the opinion of this Court

under section 256 (1) of the Income-tax Act, 1961.

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in allowing the separate deduction of 40% of incentive bonus as expenses while the incentive bonus is taxable under the head of salaries and the expenses for earning salary including bonus are covered by deduction under section 16(i) of the I.T.Act ?"

2. Identical question came up for our consideration in ITR No. 54 of 1993 and other cognate matters with which the entire group was argued and for the reasons given by us in our judgment dated 27.4.1998, we hold that the Tribunal was right in allowing the separate deduction of incentive bonus as expenses only to the extent of reimbursement of expenses actually incurred upto the maximum limit of 30% of the incentive bonus earned by the assessee. The question referred to us is accordingly answered in the affirmative against the revenue and in favour of the assessee. The Reference stands disposed of with no order as to costs.

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